

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

November 16, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-61019  
Summary Calendar

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GABRIEL HERNANDEZ

Petitioner

v.

UNITED STATES PAROLE COMMISSION

Respondent

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Petition For Review of an Order  
of the United States Parole Commission  
(28 USC 2347)

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Before. JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:\*

Petitioner Gabriel Hernandez, presently incarcerated in the Federal Correctional Institution, La Tuna, Texas, appearing pro se, appeals the release date determination that Respondent United States Parole Commission made on March 9, 2005, pursuant to 18 U.S.C. §4106A(b)(1)(A), which also prescribes that a notice of appeal of such a determination must be made within 45 days. Petitioner did not file his notice of appeal until November 3, 2008.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

In the absence of a timely filed notice of appeal, we have no jurisdiction to entertain this petition. Accordingly, (1) it is dismissed without prejudice to, inter alia, the reopening of a special transferee hearing by the Respondent pursuant to its Notice of Action 54033-180 of March 27, 2009 and (2) Petitioner's motion for appointment of counsel is denied.

APPEAL DISMISSED; MOTION DENIED.